

CITY OF DELTA, UTAH
PLANNING & ZONING COMMISSION MEETING
AUGUST 9, 2012

PRESENT

Vance Bishop
Linda Beard
Rand Crafts
Alan Johnson
Steven Pratt
Linda Sorensen

Chairman
Commission Member
Commission Member
Commission Member
Commission Member
Commission Member

ABSENT

Roger Zeeman
Alan Riding
Tom Stephenson

Commission Member
Zoning Officer
City Council Representative

ALSO PRESENT

Gregory Jay Schafer
Ken Clark
Todd Anderson
Gayle Bunker
Joseph Reilly
James Dix
Heather Schumacher

City Recorder
Assistant Zoning Officer
City Attorney
Mayor
City Resident
Reptile Jim's Reptile Park
Reptile Jim's Reptile Park

Chairman Vance Bishop called the meeting to order at 7:00 p.m. He stated that notice of the meeting time, place and agenda had been posted at the City Building, on the City website and on the Utah Public Notice website, and had been provided to the Millard County Chronicle-Progress and to each member of the Planning & Zoning Commission at least two days prior to the meeting.

MINUTES

The proposed minutes of a Planning & Zoning Meeting held June 14, 2012 were presented for consideration and approval. Following review, Commission Member Linda Beard MOVED to approve the minutes of the Planning & Zoning Commission Meeting held June 14, 2012, as presented. The motion was SECONDED by Commission Member Alan Johnson. Chairman Bishop asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed with Commission Members Linda Beard, Rand Crafts, Alan Johnson, Steven Pratt and Linda Sorensen voting in favor and Commission Member Roger Zeeman and City Council Representative Tom Stephenson being absent.

Chairman Bishop declared the meeting adjourned at 7:55 p.m.



VANCE BISHOP, Chairman



Karen Johnson, Planning & Zoning Secretary

MINUTES APPROVED: P&Z 08-09-12

BUSINESS

JOSEPH REILLY: REQUEST FOR CONDITIONAL USE PERMIT TO PLACE A 40' SHIPPING CONTAINER ON PROPERTY LOCATED AT APPROXIMATELY 520 WEST 130 NORTH.

Mr. Reilly stated that he desires to purchase and place a 40' length storage container upon his property to use for the storage of his numerous motorcycles. Mr. Reilly responded to Commission Member Rand Crafts inquiry about electrical service to the proposed container, say that he would use an extension cord in lieu of installing electrical service. Mr. Reilly referenced the drawing he submitted along with his application and explained to the commission whereupon his property that he desired to place the container. Commission Member Steven Pratt expressed concern that neighbors would likely be opposed to placement of a storage container and that, short of constructing a garage, asked why doesn't Mr. Reilly install a metal shed or a canopy-type vehicle shade that could be enclosed that didn't require a conditional use permit. Mr. Reilly replied that this type of container provides the most secure setting for his property in consideration of physical limitations barring him from building a structure himself, as well as the price of a container meets his budget for this project. Mr. Reilly further explained that the aesthetics of the container on the neighboring properties and neighborhood overall will be limited because of where it will sit in correlation to his home in addition to trees on his property that would conceal it to a great extent. After having reviewed the ordinance, and received commentary by City Attorney Todd Anderson and Assistant Zoning Officer Kenneth Clark and other pertinent discussion, given there is no legal reason to preclude Mr. Reilly's request, Chairman Bishop stated that we need to determine what conditions we would place upon Mr. Reilly in order to allow his request. Commission Member Rand Crafts MOVED to approve granting a conditional use permit for Joseph Reilly to place a 40' length storage container on property located at approximately 520 West 130 North with the following restrictions: 1) that the container be maintained by painting as necessary, 2) that the container be supported on a gravel or block base, 3) that if the property is sold, the conditional use permit expires with the sale; and 4) that the placement as proposed on his rendering meets with city requirements and permitting processes. The motion was SECONDED by Commission Member Alan Johnson. Chairman Bishop asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed with Commission Members Linda Beard, Rand Crafts, Alan Johnson and Linda Sorensen voting in favor and Commission Member Steven Pratt being opposed. The motion passed by a majority vote.

ZONING OFFICER ALAN RIDING: REVIEW COMPLIANCE WITH CONDITIONAL USE PERMIT AND RESTRICTIONS FOR REPTILE RESCUE SERVICE.

Chairman Bishop stated that this matter was placed on the agenda by Zoning Officer Alan Riding to facilitate discussion reviewing compliance with the conditional use permit issued to James Dix, owner of Reptile Jim's Reptile Park. He noted that each commission member had within their packet a copy of the original conditional use permit that was issued on January 28, 2012, along with a letter from our City Attorney Todd Anderson to Mr. Dix dated July 5, 2012 wherein he pointed out a

number of areas of noncompliance with the conditions imposed.

While James Dix was not personally on the agenda to address the council, Chairman Bishop asked Mr. Dix if he would like to tell the commission members what he had said to Mr. Bishop prior to commencement of the meeting. Mr. Dix said that he must have misinterpreted that he needed to prepare an emergency preparedness plan in the event something happened and some of the animals got loose, as well as prepare a day-by-day management program for the operation of the rescue service. He further said, "I thought that when I came in with UDOT, I already had that plan set up with Delta City. I didn't bother reading the UDOT report because I thought the binder they provided you had one within it. I did not realize that I had to have a separate plan." He went on to explain how many different agencies he responds to, how many people work for him, various ways the animal enclosures are constructed, etc., and that he doesn't foresee any escape situations occurring or any kind of threat present. He then said that he has been involved with some canine training the last few weeks. Mr. Dix said "he would like to ask for a week's extension to prepare and submit these documents. The other issue was that we opened to the public. UDOT knew we were going to do so down the road, and I guess that was another misunderstanding, in that we were approved to bring in 500 animals, live in the building, and paid a large sum of money for the facility, to not make it open the public would be a shame with such diverse animals for the public to see and enjoy." Chairman Bishop, remembering back to the original discussion with Mr. Dix, said that he remembered Mr. Dix saying that he would make the facility available for educational purposes and things of that nature, but that he would not be conducting business. Part of the concern is that it appears that Mr. Dix is operating as a business. Mr. Dix said he had signs with entrance fees, but that it is used offsetting the cost of care for the animals. He said he is willing to remove them, or reword the signs to say that donations are welcome.

Chairman Bishop said, "bottom line, as noted by our City Attorney Anderson, is that a comprehensive emergency management plan, and a comprehensive animal shelter management plan that need to be submitted to the City, and also the issue about whether or not a business license should be required." It was noted that there was an issue with a snake, a cobra, that Mr. Dix was not permitted by the state to house. Mr. Dix said he was asked to impound the snake by public safety officials, and that he has applied for a permit from the state, but that they are in arrears in issuing them.

Commission Member Linda Beard inquired if Mr. Dix was still working on becoming a non-profit organization, to which Mr. Dix replied that he had not progressed forward with that plan to extent he would have liked to have done by now, but that it remains a goal as he plans into the future.

Commission Member Rand Crafts seemed to recall that the conditional use permit was going to allow for Mr. Dix to have people come in and visit, but that he could not require a fee for access. In reading Attorney Anderson's letter to Mr. Dix, Commission Member Crafts then asked, was such permission not originally granted to Mr. Dix? City Attorney Anderson said that the answer is open to interpretation. He went on to say that he believed that Mr. Dix was going to bring in an isolated

and secluded facility that might open by special invitation to education groups, etc. It was debated, discussed and possibly contemplated with regard to being open to the public, but that in order to do so Mr. Dix would need to return to this body seeking further clarification to his conditional use permit and an amendment to clearly allow that. City Attorney Anderson gave an example of an insurance requirement being dropped from the agreement, because the only people at risk would be those working there, as previously stated by Mr. Dix. If he is going to have visitors to the premises, having insurance and having a business license are still areas of concerns. Mr. Dix was told as early as July 6, 2012, that he needed to come back to this body and make application to amend and clarify his conditional use permit. As you can see, Mr. Dix is not on the agenda this evening, and he has not acted to get upon the agenda. From the City's standpoint, the question is then, is Mr. Dix in violation of the conditional use permit because he was open to the public, or is he in violation of the conditional use permit because of some of the other things that have happened. We had a situation where a search warrant turned up a cobra and prior to that Mr. Dix had a ring-tailed bobcat that he wasn't supposed to have. Even though he claims to have applied for a permit, the fact is that he did not in fact have a permit.

Chairman Bishop stated that his greatest concern is that Mr. Dix has not put forth any effort on his part to resolve these issues that have been brought to his attention, by both the City Attorney and even with direction he received from the City Council. City Attorney Anderson said that one of the City's frustration is debate as to whether or not he should be open to the public or not, but now that he has been charging fees, he has been operating as a business without a license and there is no debate on this point. Mayor Gayle Bunker made an executive decision to allow Mr. Dix to remain open until he made application to modify his conditional use permit, having been clearly directed to request to be on the next Planning Commission agenda and to also provide the requisite application outlining the modifications sought to his conditional use permit. Mr. Dix failed to take any action to be scheduled at this meeting so that this matter of business could be acted upon by this body. Mr. Dix offered explanation of why he has had trouble complying with our requirements, to which Chairman Bishop stated that Mr. Dix's concern need be with is compliance with the conditional use permit in Delta City, regardless of how things are done other place. Chairman Bishop asked Mayor Bunker if he wanted to make comment on the matter. Mayor Bunker asked Mr. Dix if he were advised to get on the Planning Commission agenda, to which Mr. Dix replied he was. Mayor Bunker asked Mr. Dix if he was told that he would need a business license if he continued to charge, to which Mr. Dix also replied affirmatively. Mayor Bunker reiterated that Mr. Dix has not made any attempt to get on the agenda to go back before the Planning Commission or to contact the city for a business license. Mayor Bunker stated that the many excuses offered by Mr. Dix are invalid, not because Mr. Dix wasn't provided answers to his questions, but because he never sought them out to begin with.

Chairman Bishop asserted that this body really has no authority to act now, and that the matter falls to the jurisdiction of the zoning officer to determine if the conditional use permit has been violated. City Attorney Anderson indicated that the reason Zoning Officer Alan Riding had this matter placed on the agenda was to receive some guidance from this body to determine if Mr. Dix were to make proper application would the planning commission be inclined to grant the modification of the conditional use permit or would they be inclined to revoke it. Chairman Bishop came back to the matters of the two plans that need to be submitted and also the issue of the business license. City Attorney Anderson asked if the determination needs to be made about whether it was the intent to begin with or not that Mr. Dix could have the facility open to the public. Chairman Bishop felt that from his recollection, he concurred with Commission Member Crafts that Mr. Dix would open his facility to education groups, special invitation, etc. Commission Member Sorensen said that if Mr. Dix would be willing to make proper application and demonstrate willingness to be in compliance, we should give him the chance. Further, she believes that Mr. Dix truly did have a misunderstanding of the requirements upon him. She also felt that Mr. Dix should no longer charge any fees until the conditional use permit amendments and business licensing issues are resolved. Commission Member Crafts wondered if the City was no longer willing to work with Mr. Dix, and simply wanted to revoke the conditional use. City Attorney Anderson and Assistant Zoning Officer Kenneth Clark both explained that this is not their goal, that the service Mr. Dix is providing is likely beneficial, and that educational tours, etc., are valuable means of learning, but that we need to get Mr. Dix to act to address the concerns held by the City. We as the City have had to become somewhat harsh with Mr. Dix because he has dismissed the importance we've placed upon these issues for some time now. Commission Chairman Vance Bishop indicated to Mr. Dix that he is hearing that there is some level of tolerance existing, but that it is very limited. Mr. Dix needs to act to remedy his current areas of non-compliance and then make application for a business license if he desires to be open and charge fees for admission. Chairman Bishop further stated that Mr. Dix shouldn't go beyond what conditions the conditional use permit allows until you ask for a clarification or amendment to the permit, neither of which happened by tonight. It would be the recommendation of this body that you proceed as quickly as you can to come into compliance.

If Zoning Officer Alan Riding were to set a deadline that Mr. Dix would have to be in compliance, he is legally within his right to invoke such a deadline and enforce the revocation of Mr. Dix's permit. Mr. Dix said that he would feel bad if he had to turn people away who came to visit if he could no longer be open until the conditional use permit is modified and a business license is issued. Members of the planning commission were displeased to here that Mr. Dix has flyers up between here and Eureka, Salt Lake and elsewhere. The planning commission indicated that they clearly see this as business advertisement by Mr. Dix. Discussion shifted back to the requisite plans that have

not been prepared and submitted for approval, and emphasis was placed upon the fact that these must be submitted in short order. Mr. Dix then stated that the necessity of all these plans "Are all new to me." City Attorney Anderson pointed out that a conditional use permit does not require a signature, but that he was required to sign it for the very reasons we are discussing issues of noncompliance this evening. Chairman Bishop reiterated that Mr. Dix signed the permit, that he as Chairman signed the permit, and that the conditions were clearly stated within. Mr. Dix offered more excuses and Chairman Bishop said he, just like the Mayor has grown tired of the excuses being offered. Commission Member Sorensen suggested that there are surely other facilities around the valley and state that do similar things as Mr. Dix's operation, and surely some other entity might have plans like these that Mr. Dix could use as a model.


City Attorney Anderson suggested that perhaps what we should do is prepare formal written notice to Mr. Dix interpreting that he is possibly in violation of the conditional use permit, providing a cure period of time until the next planning commission meeting, and at the next planning commission meeting he must have made proper application to seek modification of his conditional use permit and prove compliance. Lastly, if he receives the modifications he seeks and proves compliance, he would then need to request a business license. If we cannot get over that hurdle, we'd then have to give Mr. Dix a ten-day notice of a violation(s) of conditional use permit restriction and move to revoke the permit. Chairman Bishop noted the problem that the planning commission does not normally hold a meeting in September of each year because of the Utah League of Cities and Towns Annual Fall Conference that is held in Salt Lake City, and feels that extending the date clear until into October to allow Mr. Dix to remedy the issues at hand is far too long into the future. City Attorney Anderson said that he would prepare a notice to Mr. Dix that indicating that it is the City's interpretation that he is to be closed until he meets with the Planning Commission in October. Chairman Vance Bishop expressed significant concern that the Comprehensive Emergency Management Plan and the Comprehensive Animal Shelter Management Plan were to have been completed before animals were ever on the premises and still have not been done and further stated that he does not want to wait clear until October for him to complete and submit them for approval. City Attorney Anderson suggested we could impose a two-week limit upon Mr. Dix to satisfy the zoning officer's preliminary review, and that he also then be required to satisfy the Planning Commission at the October 11, 2012 meeting as well. Chairman Bishop asked Attorney Anderson to clarify exactly what Mr. Dix should seek from the planning commission at the October meeting. City Attorney Anderson said that he needs to file an application to amend his conditional use permit and provide proof to the planning commission that he is in compliance with the existing terms irregardless of whether an amendment is approved. Commission Member Sorensen suggested that should Mr. Dix be willing to submit his plans sooner than the two-week deadline, perhaps the zoning officer could review them and give Mr. Dix feedback as to whether the plans are or an acceptable

nature or if they still need further work upon them. Assistant Zoning Office Kenneth Clark felt this would be something that he or Zoning Officer Alan Riding would be willing to do. Chairman Bishop said that while this topic was only on the agenda tonight for discussion, he feels it would be appropriate if a motion were made giving suggested direction on how the Planning Commission would like to see the zoning officer or city staff proceed, and asked if anybody would be willing to make such a motion.

Commission Member Rand Crafts MOVED to provide a recommendation to the city zoning officer that Mr. James Dix, of Jim's Reptile Rescue Park, 1) provides proof to the zoning officer of being in complete compliance with all aspects of the conditional use permit, and particularly regarding the deficiencies noted in the City Attorney's letter to Mr. Dix on July 5, 2012; 2) that he provides the plans, that were part of the original conditional use permit, they being the Comprehensive Emergency Management Plan and Comprehensive Animal Shelter Management Plan, and that they be delivered to the zoning officer within 14 days of Mr. Dix receiving a copy of the draft minutes of these proceedings; and 3) also expects Mr. Dix provide evidence to the Planning Commission that he will be in full compliance with the conditional use permit by October 11, 2012; and also that the 4) zoning officer and the city take actions necessary to assure that Mr. Dix stops and desists from business-like activities at the reptile rescue facility. Discussion followed on the motion, and after further comprehension by the board, city officials and Mr. Dix himself, the motion was SECONDED by Commission Member Linda Sorensen. Chairman Bishop asked if there were any further comments or questions regarding the motion. There being none, he called for a vote. The motion passed with Commission Members Linda Beard, Rand Crafts, Alan Johnson, Steven Pratt and Linda Sorensen voting in favor. The motion passed unanimously.

Chairman Bishop asked if there were any further comments or questions. There being none, Commission Member Alan Johnson MOVED to adjourn the meeting. The motion was SECONDED by Commission Member Rand Crafts. Chairman Bishop asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed with Commission Members Linda Beard, Rand Crafts, Alan Johnson, Steven Pratt and Linda Sorensen voting in favor and Commission Members Roger Zeeman and Tom Stephenson being absent.

Chairman Bishop declared the meeting adjourned at 8:37 p.m.


GREGORY JAY SCHAFER, City Recorder
MINUTES APPROVED: P&Z 11-08-12


VANCE BISHOP, Chairman